

ESTTA Tracking number: **ESTTA697814**

Filing date: **09/23/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91213744
Party	Plaintiff Yuko Fujita
Correspondence Address	ANNETTE P HELLER HELLER & ASSOCIATES 400 CHESTERFIELD CENTER CHESTERFIELD, MO 63017 UNITED STATES tmattorneyheller@aol.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Annette P. Heller
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Signature	/aph72/
Date	09/23/2015
Attachments	KINOKI Motion for Leave to Amend - Reply -Declaration.pdf(824735 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Yuko Fujita)	
)	
Opposer,)	
)	
v.)	Opposition No. <u>91213744</u>
)	
Pearl Enterprises, LLC)	
Applicant.)	
_____)	

MOTION FOR LEAVE TO AMEND NOTICE OF OPPOSITION - REPLY

Opposer Yuko Fujita (“Opposer”) finds that in addition to the fact that the identification of goods in the application are not supported by the specimen [which is not very legible] and appears to show a foot pad, it also appears that the specimen used by Applicant is the packaging of a private label customer of Licensee or a copy of Licensee’s private label packaging for a foot adhesive pads. [See attached Declaration by Licensee].

If this specimen is in fact, Licensee’s private label packaging, then none of the original identification nor the amended identification is supported by the specimen Applicant attached to its application.

If it is only a copy of Licensee’s packaging and since the text is not legible, Applicant will have an opportunity to provide a better specimen to support their argument that the specimen does cover the goods described in the original identification or the amended identification.

The fact that the specimen appeared to be a copy of Opposer’s packaging was brought to Opposer’s attorney’s attention when working on discovery responses served by Applicant. At

that point, a closer view of the identification was reviewed and compared to the specimen. Based on that review, Opposer filed its motion to amend the complaint.

WHEREFORE, Opposer respectfully requests that the Board grant Opposer's Motion for Leave to Amend and accept the attached First Amended Notice of Opposition as the operative pleading in this proceeding.

Respectfully submitted,

YUKO FUJITA

By: _____/aph72/
Annette P. Heller
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Tel: (314) 469-2610
Fax: (314) 469-4850
tmattorneyheller@aol.com

Dated: 9/23/2015

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing has been served by mailing said copy on 9/23/2015 via First-Class Mail, postage pre-paid, to:

Christopher R. Kinkade
Fox Rothschild LLP
997 Lenox Dr., Bldg. 3
Lawrenceville, NJ 08648

/aph72/
Annette P. Heller, Attorney for Opposer

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Pearl Enterprises, LLC)	
Applicant.)	
_____)	


DECLARATION OF NURMAN SALIM

COMES NOW, Nurman Salim, under the penalty of perjury and being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, declares the following:

1. My name is Nurman Salim and I am over the age of majority and do not suffer from any mental disability or infirmity that prevents me from giving this Declaration. This Declaration is based on my own personal knowledge.
2. I am the current President of Kenrio LTD ("Kenrico"), a Japanese corporation.
3. Kenrico is a non-exclusive licensee of Opposer Yuko Fujita's KINOKI trademark.
4. Attached as **Exhibit A** is a copy of Kinoki packaging we created for a private label customer
5. I have attached as **Exhibit B** a copy of Applicant's specimen as shown on the Trademark Office web site.
6. Based on my comparison of the two exhibits, it is my opinion that the specimen filed by Applicant (which is not very clear) appears to be a copy of the packaging we did for our private label customer.

7. Applicant is not a customer of Kenrico and is not authorized to use the trademark KINOKI.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Nurman Salim, President
Kenrico LTD
1738-2 Kikugawa
Shimada, Shizuoka 428-0037
JAPAN

Dated: 2015/09/17



Contains
10 Pads

Cleanse & Energize Your Body

NEW

K I Y O M E

KINOKI

Cleansing Detox Foot Pads



Work While You Sleep!



Only by one night
Black and dirty toxins
come out from the body!

Contains
10 Pads



EXHIBIT A

- Dispel toxins and maintain beauty
- Relax muscles & tendons and eliminate internal moisture
- Replenish vital essence and strengthening the kidney
- Shape and beautify body
- Promote sleeping and relieve fatigue
- Beautify foot and clear odour

NEW

K I Y O M E



KINOKI

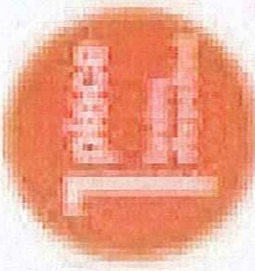
Cleansing Detoxi Foot Pads



Free Trial

Only by using right
foot pads and right
method can you see the effect

Contains
10 Pads



- Effectiveness and safety in history
- Effectiveness of treatment and
- Effectiveness of treatment and
- Effectiveness of treatment and
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